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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,223	01/27/2006	Jaya Sivaswami Tyagi	4544-060174	3494
	7590 01/03/201 AW FIRM, P.C.	EXAMINER		
700 KOPPERS	BUILDING	BERTAGNA, ANGELA MARIE		
436 SEVENTH PITTSBURGH	-		ART UNIT	PAPER NUMBER
			1637	
			MAIL DATE	DELIVERY MODE
			01/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/566,223	TYAGI ET AL.		
Examiner	Art Unit		
	Ait onit		

NOTICE OF APPEAL □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS 3. □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) □ They raise new issues that would require further consideration and/or search (see NOTE below); (b) □ They raise the issue of new matter (see NOTE below); (c) □ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) □ They present additional claims without cancelling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 1. □ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 3. □ Newly proposed or amended claim(s) □ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). □ For purposes of appeal, the proposed amendment(s): a) □ will not be entered, or b) □ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: □ Claim(s) rejected: 117.120.124 and 126.129. Claim(s) rejected: 117.120.124 and 126.129. Claim(s) withdrawn from consideration: 130-132. AFFIDAVIT OR OTHER EVIDENCE 3. □ The affidavit or other evidence filed after a final action, but before or on the date of filling a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). □ □		Angela M. Bertagna	1637	
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandoment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply exprise <u>4</u> months from the mailing date of the final rejection. b) ☐ The period for reply exprise <u>4</u> months from the mailing date of the final rejection. convent, however, will the statutory period for reply exprise alast riban 31X MONTHS from the mailing date of the final rejection. Examiner Note: if Not is checked, check either box (3) or (6), ONLY-CHECK BOX (b) WHENT PERFIRET REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 776.07(f). Contraction and the statutory period for reply exprise alast riban 31X MONTHS from the mailing date of the final rejection. Which were also also the may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the exprisition date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the exprisition date of the storement statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above. If checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or it intelly filed, hay reduce any earned patient term adjustment. See 37 CFR 1.794(b). CONTINUE OF AFPEAL. 2. ☐ The Notice of Appeal was filed on	The MAILING DATE of this communication appe	ars on the cover sheet with the o	correspondence add	ress
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandoment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expires <u>4</u> months from the mailing date of the final rejection. b) ☐ The period for reply expires <u>4</u> months from the mailing date of the final rejection. b) ☐ The period for reply expires <u>4</u> months from the mailing date of the final rejection. convent, however, will the statutory period for reply expire later than 30 kM 00/RTHS from the mailing date of the final rejection. Examiner Note: if box it is enclested, check either box (a) or (5), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 776 070; MONTHS OF THE FINAL REJECTION. See MFEP 776 070; Checking may be obtained under 37 CFR 1.136(a). The date on which the perition under 37 CFR 1.136(a) and the appropriate extension fee number 37 CFR 1.17(a) is calculated from: (1) the expiration date on the final rejection on the 37 CFR 1.136(a) and the appropriate extension fee number 37 CFR 1.17(a) is calculated from; (1) the expiration date of the thortened statutory period for reply originally set in the final office action; or (2) as set forth in (a) above, if checked. Any reply review day by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (a) above. If checked, Any reply received by the Office later than three months after the mailing date of the final rejection or the final rejection or the final rejection. In the final rejection or the final rejection or the final rejection or the final rejection o	THE REPLY FILED 20 December 2010 FAILS TO PLACE THIS	APPLICATION IN CONDITION F	OR ALLOWANCE.	
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Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final Office action; or (2) as set forth in (3) and the appropriate extension of the set of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). **MENDMENTS** 3. A The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: **See Continuation Sheet*** (See 37 CFR 1.116)** and 41.33(a).	a) The period for reply expires 4 months from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (dvisory Action, or (2) the date set forth tter than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection	n.
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	12. Note the attached Information <i>Disclosure Statement</i> (s). (13. Other:	PTO/SB/08) Paper No(s)		
/Young J Kim/ Primary Examiner, Art Unit 1637			nit 1637	

Continuation of 3. NOTE: The requirement in independent claim 117 for "obtaining viable mycobacteria" has not been presented previously, and, therefore, requires further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are directed to the claims as amended. Since the amendment was not entered, Applicant's arguments filed on December 20, 2010 are moot. The claims remain objected to and rejected for the reasons set forth in the final rejection mailed on August 19, 2010.